

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2004-092388

12/31/2009

HONORABLE JAMES P. BEENE

CLERK OF THE COURT

K. Alger

Deputy

IN RE THE MATTER OF  
TIMOTHY J BRENDEL

TIMOTHY J BRENDEL  
17655 N 114TH LN  
SURPRISE AZ 85374

AND

BRITTNEY L ROBERTS

BRITTNEY L ROBERTS  
6445 S MAPLE AVE # 1094  
TEMPE AZ 85283

HARRY E CAWOOD  
PAULA J COTITTA  
AG-CHILD SUPPORT-EAST VALLEY  
OFFICE

**ORDER**

On May 27, 2009, Petitioner/Father filed a petition to modify child custody, parenting time and child support. Respondent/Mother did not file a response. On November 20, 2009, the Court held an evidentiary hearing on Father's petition. Father and Mother testified at the hearing. Based on the testimony presented at the hearing, the Court issues the following orders.

**LEGAL CUSTODY**

On May 16, 2008, the Court awarded the parties joint legal custody of the minor child. In Father's petition to modify, he requests that the parties be awarded joint legal custody of the minor child. In accordance with the factors set forth in A.R.S. § 25-403, the Court finds that it is in the best interest of the minor child to affirm the Court's May 16, 2008 order and award the parties joint legal custody of the minor child.

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**PHYSICAL CUSTODY**

A.R.S. § 25-411(D) sets forth the parameters in which the Court may modify a parenting time order. Pursuant to A.R.S. § 25-411(D), “[t]he court may modify an order granting or denying parenting time rights whenever modification would serve the best interest of the child...”

Based on the testimony and evidence presented at the hearing, Father failed to meet his burden under A.R.S. § 25-411(D). Father failed to show that it would be in the child’s best interest to modify the current parenting time schedule. In fact, the Court finds that Father’s request to relocate the minor child’s to a new school would *not* be in the child’s best interest. Therefore,

**IT IS ORDERED** denying Father’s request to modify parenting time and child support.

**OTHER PARENTING ISSUES**

At the hearing, Father presented credible evidence which established that Mother has not provided him with the contact information regarding the minor child’s doctor and dentist. In addition, Father provided the Court with credible evidence that Mother has not timely advised Father of the minor child’s medical/dental appointments.

Father also testified that Mother’s boyfriend has employed corporal punishment (spanking) on the minor child. Father requested that Mother’s boyfriend be prohibited from spanking the minor child. Based on the testimony and evidence presented regarding these issues,

**IT IS ORDERED** that no later than ten (10) days from the date of the Court’s order, Mother shall disclose to Father, all contact information (addresses and telephone numbers) regarding the minor child’s doctor and dentist. Also, both parents shall be listed and identified as contact persons on all records.

**IT IS FURTHER ORDERED** that Mother shall notify Father within twenty-four (24) hours of all medical/dental appointments made on behalf of the minor child.

**IT IS FURTHER ORDERED** in the event of any emergency or urgent circumstance involving the minor child, the other parent shall be notified as soon as is reasonably possible.

**IT IS FURTHER ORDERED** that Mother’s boyfriend is prohibited from using corporal punishment on the minor child.

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**IT IS FURTHER ORDERED** that Mother's daily telephone call to the minor child shall occur between 6:30 p.m. and 7:30 p.m. when the minor child is in Father's care. Father shall not disrupt the telephone contact between Mother and the minor child.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

FILED: Exhibits Worksheet

DATED the 31st day of December, 2009

/S/ HONORABLE JAMES P. BEENE

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JAMES P. BEENE  
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.